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Historically disability compensation for members of the military forces has been excluded from the gross income of the recipient.* There has not been a requirement that the illness or injury causing the disability be shown to have resulted directly from service.** The presumption has been that absent willful self-injury the disability resulted from service. No doubt the conditions of service and exposure to all types of adversity abroad were significant factors in the development of this concept.

In similar fashion, disability annuities for the Foreign Service have been exempted from inclusion in gross income since Foreign Service officers serve in all quarters of the world, and in most of these posts medical standards and facilities are far below those in the United States. Therefore, Foreign Service sought this exemption although their employees were at the time covered by the terms of the Federal Employees Compensation Act. This Act, however, requires a showing that the injury or illness was incurred in the performance of duty before an award can be made, but in such cases this compensation too, is excluded from gross income.*** However, this standard of "incurred in the performance of duty" has not been interpreted so broadly as the military "line of duty" concept; consequently, there are many cases of disability resulting from an accumulation of debilitating influences over the years where the sufficient causal relationship, required by the FECA, is difficult to demonstrate.

*26 U.S.C. 104 (a) (4)

**Freeman v. U.S., 265 F 2d 66 (1959)

***26 U.S.C. 104 (a)(1)

In the case of CIA, then, a similar exclusion from gross income is sought for those who will be covered under the new retirement system. It is pertinent to note that only a small part of Agency employees will be so covered. Coverage is intended only for those persons who have been actively engaged in the conduct and support of foreign intelligence activities abroad. Many of these employees serve in posts abroad under conditions of employment which closely parallel those of Foreign Service officers. Both Foreign Service officers and CIA officers labor under considerable tension shouldering great responsibility to make quick and correct decisions. The CIA, like the Foreign Service, has noted with dismay the number of disabled who have been retired because of emotional or psychiatric problems wrought by years of stress and strain overseas. Under such circumstances it is difficult if not futile to endeavor to identify the precise situation which brings on the disability.

Other CIA employees are serving under field conditions including exposure to hostile combat operations which bring these employees under approximately the same conditions to which members of our armed forces are exposed.

Additionally, unlike the domestic civil service these groups of CIA employees are considered to be on a 24-hour day basis and are obligated to serve anywhere in the world where the Agency determines their services are needed.

In summation, the conditions and stresses of service in foreign intelligence activities of the CIA are such as to establish a presumption of attribution of disability to service to the Government to a degree warranting the exclusion of disability annuities from gross income in accordance with established precedent.